

DISTRICT COURT OF THE UNITED STATES
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
1:13-cv-183-FDW

TERRANCE L. JAMES-BEY,)
)
)
Petitioner,)
)
)
vs.)
)
RENOICE E. STANCIL,)
)
)
Respondent.)

ORDER

IT APPEARING to the Court that this action filed by the pro se Petitioner under 28 U.S.C. § 2254, is duplicative of another petition filed under § 2254 in which Petitioner is represented by North Carolina Prisoner Legal Services, this matter is dismissed without prejudice to Petitioner to pursue his claims for relief in his other § 2254 petition.¹ See James-Bey v. Stancil, 3:13cv386 (W.D.N.C.).

The Clerk is instructed to terminate this action. It is further ordered that pursuant to Rule 11(a) of the Rules Governing Section 2254 and Section 2255 Cases, this Court declines to issue a certificate of appealability. See 28 U.S.C. § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 338 (2003) (in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong); Slack v. McDaniel, 529 U.S. 473, 484 (2000) (when relief is denied on procedural grounds, a petitioner

¹ Counsel explains in Petitioner's other action that Petitioner instructed counsel to submit his pro se petition along with the petition drafted and submitted by counsel in 3:13cv386. See (3:13cv386, Doc. No. 4). The Court further notes that the petition is successive, but counsel explains in the other action that Petitioner is raising a claim under Miller v. Alabama, 132 S. Ct. 2455 (2012), and that the Fourth Circuit Court of Appeals granted authorization on May 10, 2013 to file a successive petition.

must establish both that the dispositive procedural ruling is debatable and that the petition states a debatable claim of the denial of a constitutional right).

Signed: July 13, 2013



Frank D. Whitney
Chief United States District Judge

